

FILED

JUN 2-2015
RICHARD W. WIEKING
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

SECURITIES AND EXCHANGE
COMMISSION,

Case No. CV12-03237-EJD

Plaintiff,

VS.

SMALL BUSINESS CAPITAL CORP.; MARK
FEATHERS; INVESTORS PRIME FUND, LLC;
and SBC PORTFOLIO FUND, LLC,

Defendants.

**MARK FEATHERS' REQUEST
FOR LEAVE OF THE COURT
UNDER LOCAL RULE 7-9 TO
FILE A MOTION TO MODIFY
PRELIMINARY INJUNCTION
AND ORDERS: (1) FREEZING
ASSETS; (2) PROHIBITING THE
DESTRUCTION OF
DOCUMENTS; (3) REQUIRING
ACCOUNTINGS; AND (4)
APPOINTING A PERMANENT
RECEIVER (DOCKET 34)**

AND

**REQUEST FOR JUDICIAL
NOTICE OF FEDERAL TORT
COMPLAINT ACT LAWSUIT
FILING OF FEATHERS V.
UNITED STATES; CV15-02194-
PSG**

Judge: Hon. Edward J. Davila

TENTATIVE HEARING:

DATE: SEPTEMBER 10, 2015
TIME: 9:00 A.M.
AT: COURTROOM 4, 5TH FLOOR


1
2 Under local rule 7-9 defendant is requesting leave of the court to submit a MOTION to
3 modify the preliminary injunction (Docket 34).

4 For good cause, defendant Mark Feathers has filed a Complaint against the United States
5 under the Federal Tort Claim Act due to acts of professional negligence by accountants of the
6 Enforcement Division of the United States Securities and Exchange Commission; see Exhibit "A".

7 Accompanying this request for leave is Feathers' Points of Memorandum and
8 Understanding which outlines a basis for his request to modify the Court's Preliminary Injunction
9 (Docket 34), and an Order for such. This leave request is respectfully presented to the Court based
10 upon a *prima facie* showing by Feathers in his Complaint of professional negligence of accountants
11 of the Enforcement Division of the United States Securities and Exchange Commission, in these
12 accountant's substantial departure in their sealed *ex parte prima facie* Complaint from Generally
13 Accepted Accounting Principles ("GAAP") and Generally Accepted Audit Standards ("GAAS")
14 when describing financial operations of the defendants. The substantial departure of SEC
15 accountants from GAAP and GAAS, and which led to scores of objectively false and grossly
16 misleading financial illustrations by SEC as to the defendant's investment funds distributions is
17 beyond conjecture. SEC has admitted to the act engaged in by their CPA's, which, *prima facie*,
18 appear to meet legal requirements of professional negligence. These acts have brought great harm
19 to defendants.

20 As further outlined in the attached points of Memorandum and Understanding, it will be to
21 the benefit of the Receivership Estate that a portion of their assets and their income are used to
22 engage qualified counsel and expert witnesses to prosecute their Federal Tort Claim filing against
23 the United States.

24
25 Respectfully submitted,

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27 Mark Feathers, Pro Se Defendant

28 Dated: June 2, 2015